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IN THE HIGH COURT OF CHHATTISGARH

AT BILASPUR

M. C. C. NO. 235 /2005 Single Bench

APPLICANTS :1. Smt. Jayanti Widow of Liti Muriya, Agriculturist, at present aged about 58 years,

APPELLANTS

2. Sukman S/o Liti Muriya, Agriculturist, at present aged about 38 years,

3. Dasmu S/o Liti Moriya, Agriculturist, at present aged about 36 years,

All are R/o Village Karanji, Tahsil Jagdalpur, Distt. Bastar (C.G.).

P.R. No. ..... Presented by Shri ..... dated .....

VERSUS

NON-APPLICANTS : 1. Gopinath S/o Gobaru Muriya, Agriculturist, at present aged about 62 years,

RESPONDENTS

2. Samnath S/o Gobaru Muriya, Agriculturist, at present aged about 58 years,

3. Smt. Subri Widow of Ramnath Muriya, at present aged about 51 years,

4. Lachhu S/o Ramnath Muriya, at present aged about 16 years, a minor through natural guardian mother Smt. Subri widow of Ramnath Muriya,

All are R/o village Karanji, Tahsil Jagdalpur, Distt. Bastar (C.G.).

APPLICATION UNDER ORDER 41 RULE 19 OF C.P.C. FOR RE-ADMISSION OF APPEAL DISMISSED FOR DEFAULT

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक

मामला क्रमांक M.C.C.No.235/05 सन् 2005

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	27.01.2006 Shri Manoj Mishra, learned counsel for the appellants. The appellants have preferred this appeal for restoration of Second Appeal No. 897/98 as the same was dismissed by this Court vide order dated 15.02.2005 for non prosecution. Heard on M.C.P. No. 1590/2005 application under Section 5 of the Limitation Act. Learned counsel for the appellants submits that the appellants have also filed an application for condonation of delay in prefering this application supported with an affidavit as there is delay of 179 days in filing this application for restoration under Order 41 Rule 19 of the CPC. For the reasons indicated in the said application, the same is allowed. The delay in filing application for restoration is condoned. Learned counsel for the appellants submits that the instant Second Appeal was filed before the High Court of M.P. at Jabalpur through the counsel. However after formation of High Court of Chhattsigarh at Bilaspur, no notice was given to the appellants regarding transfer of the case from Jabalpur to High Court of C.G. at Bilaspur and further submits that from perusal of the order dated 15.02.2005 it appears that SPC was directed to be issued on 18.01.2005 to the appellants however no notice has been issued to the appellants in this regard and they learnt about the dismissal of the appeal on 17.08.2005 when they attended the Court of Tahsildar in the ~~partisan~~ partition proceedings. Taking into consideration the overall circumstances narrated in this application which is supported by an affidavit of appellant No.2, the instant application is allowed and it is directed that the Second Appeal No. 897/98 be restored to its original number. **Sd/-** **Dhirendra Mishra** **Judge**	